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In re Application of SFANDIARI
U.S. Application No.: 09/582,002
Int. Application No.: PCT/GB98/03810
Int. Filing Date: 17 December 1998
Priority Date: 19 December 1997
Attorney Docket No.: WIREFAC.020A
For: APPARATUS AND METHOD FOR SIGNAL
DETECTION BY BASE STATION IN A
MOBILE COMMUNICATION SYSTEM

DECISION

This is in response to applicant's "Petition for Division and Change in Filing Status of Application" filed 05 December 2000. The requisite petition fee has been provided.

BACKGROUND

On 17 December 1998, applicant filed international application PCT/GB98/03810, which claimed priority of an earlier United Kingdom application filed 19 December 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 01 July 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 July 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2000.

On 19 June 2000, applicant filed national stage papers in the United States. The submission was accompanied by, *inter alia*: 1) three copies of the international application, 2) triple the basic national fee required by 35 U.S.C. 371(c)(1), 3) three transmittal letters requesting national stage entry under 35 U.S.C. 371 and listing three different attorney docket numbers ("WIREFAC.020A", "WIREFAC.021A", and "WIREFAC.022A"), and 4) three preliminary amendments listing the same respective docket numbers. The submission was assigned U.S. Application No. 09/582,002.

On 30 November 2000, applicant filed the present petition requesting that the respective papers associated with attorney docket numbers "WIREFAC.021A" and "WIREFAC.022A" be treated as two divisional applications filed under 35 U.S.C. 111, each claiming priority under 35 U.S.C. 120 to the present national stage application 09/582,002.

Also on 30 November 2000, applicant filed two sets of papers as divisional applications of U.S. Application No. 09/582,002. The two sets of papers list respective attorney docket numbers "WIREFAC.021A" and "WIREFAC.022A". Each set of papers includes a preliminary amendment substantially identical to the respective preliminary amendment filed on 19 June 2000. Neither set of papers filed on 30 November 2000 includes a specification or drawings. The set of papers listing attorney docket number "WIREFAC.021A" was assigned U.S. Application No. 09/728,513, and the set of papers listing attorney docket number "WIREFAC.022A" was assigned U.S. Application No. 09/728,514.

DISCUSSION

Because an international application which enters the national stage under 35 U.S.C. 371 is a single application, the submission of three different sets of national stage papers on 19 June 2000 was improper.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." In the present case, the USPTO received three copies of the international application, each including a specification and drawings, on 19 June 2000. Thus, applicant has met the requirements for a filing date under 35 U.S.C. 111(a) with respect to the papers associated with attorney docket numbers "WIREFAC.021A" and "WIREFAC.022A".

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in either U.S. Application No. 09/728,513 or U.S. Application No. 09/728,514 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111 and ending on the mailing date of this decision. See 37 CFR 1.704(a).

CONCLUSION

For the reasons above, the petition to treat the respective papers filed on 19 June 2000 associated with attorney docket numbers "WIREFAC.021A" and "WIREFAC.022A" as two divisional applications filed under 35 U.S.C. 111 is GRANTED.

The papers associated with attorney docket number "WIREFAC.021A" (including a copy of the international application) have been removed from U.S. Application No. 09/582,002 and placed in U.S. Application No. 09/728,513. The copy of the international application will be treated as the originally filed specification, claims, and drawings of U.S. Application No. 09/728,513. The papers associated with attorney docket number "WIREFAC.022A" (including a copy of the international application) have been removed from U.S. Application No. 09/582,002 and placed in U.S. Application No. 09/728,514. The copy of the international application will be treated as the originally filed specification, claims, and drawings of U.S. Application No. 09/728,514.

The present national stage application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision, including: 1) applying appropriate portions of the excess filing fees in U.S. Application No. 09/582,002 to U.S. Application Nos. 09/728,513 and 09/728,514, 2) refunding any remaining portion of the excess filing fees in U.S. Application No. 09/582,002, and 3) forwarding the present national stage application to the appropriate Examining Group.

The amendments filed under PCT Article 34 have been entered into the present national stage application but will not be entered into divisional applications 09/728,513 and 09/728,514 since the divisional applications are not national stage applications.



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